

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 JACOBY DERAILE HUBBARD,

4 Plaintiff

Case No. 3:20-cv-00088-MMD-CLB

ORDER

5 v.

6 JERRY HOWELL, *et al.*,

7 Defendants
8

9 **I. DISCUSSION**

10 On February 7, 2020, Plaintiff, an inmate in the custody of the Nevada Department
11 of Corrections ("NDOC"), submitted a civil rights complaint under 42 U.S.C. § 1983. (ECF
12 No. 1-1). Plaintiff neither paid the full filing fee nor filed an application to proceed *in forma*
13 *pauperis*. On February 11, 2020, this Court issued an order directing Plaintiff to file a fully
14 complete application to proceed *in forma pauperis* and attach an inmate account
15 statement for the past six months and a properly executed financial certificate within forty-
16 five (45) days of that order. (ECF No. 3). Plaintiff subsequently filed an application to
17 proceed *in forma pauperis*. (ECF No. 4). However, with his application at ECF No. 4,
18 Plaintiff did not submit an inmate account statement for the past six months or a properly
19 executed financial certificate. As such, Plaintiff's application to proceed *in forma pauperis*
20 is denied without prejudice.

21 Under 28 U.S.C. § 1915(a)(2) and Local Rule LSR 1-2, Plaintiff must complete an
22 application to proceed *in forma pauperis* and attach both an inmate account statement
23 for the past six months and a properly executed financial certificate. Plaintiff will be
24 granted one final opportunity to cure the deficiencies of his application to proceed *in forma*
25 *pauperis* by filing a new and fully complete application to proceed *in forma pauperis*,
26 including an inmate account statement for the past six months and a properly executed
27 financial certificate, or in the alternative, pay the full \$400 filing fee for this action. If
28 Plaintiff fails to file a new and fully complete application to proceed *in forma pauperis*,

1 including an inmate account statement for the past six months and a properly executed
2 financial certificate, the Court will dismiss the case in its entirety, without prejudice, for
3 Plaintiff to file a new case when Plaintiff is able to acquire the necessary documents to
4 file a complete application to proceed *in forma pauperis* with complete financial
5 attachments. The Court will retain Plaintiff's civil rights complaint (ECF No. 1-1), but will
6 not file it until the matter of the payment of the filing fee is resolved.

7 The Court notes that according to the Nevada Department of Corrections
8 ("NDOC") inmate database, Plaintiff is no longer at the address listed with the Court.
9 Further, pursuant to Nevada Local Rule of Practice IA 3-1, a "pro se party must
10 immediately file with the court written notification of any change of mailing address, email
11 address, telephone number, or facsimile number. The notification must include proof of
12 service on each opposing party or the party's attorney. Failure to comply with this rule
13 may result in the dismissal of the action, entry of default judgment, or other sanctions as
14 deemed appropriate by the court." Nev. Loc. R. IA 3-1. This Court grants Plaintiff forty-
15 five (45) days from the date of entry of this order to file his updated address with this
16 Court. If Plaintiff does not update the Court with his current address within forty-five (45)
17 days from the date of entry of this order, the Court will dismiss this action without
18 prejudice. As a one-time courtesy, the Clerk of the Court will send this order to Plaintiff
19 at the current address listed with the Court and to Plaintiff at Southern Desert Correctional
20 Center, the address referenced for Plaintiff in the NDOC inmate database.

21 **II. CONCLUSION**

22 For the foregoing reasons, IT IS ORDERED that Plaintiff's application at ECF No.
23 4 is denied without prejudice.

24 IT IS FURTHER ORDERED that the Clerk of the Court WILL SEND Plaintiff the
25 approved form application to proceed *in forma pauperis* by a prisoner, as well as the
26 document entitled information and instructions for filing an *in forma pauperis* application.

27 IT IS FURTHER ORDERED that within **forty-five (45) days** from the date of this
28 order, Plaintiff will either: (1) file a new and fully complete application to proceed *in forma*

1 *pauperis* and attach an inmate account statement for the past six months and a properly
2 executed financial certificate in compliance with 28 U.S.C. § 1915(a); or (2) pay the full
3 \$400 fee for filing a civil action (which includes the \$350 filing fee and the \$50
4 administrative fee).

5 IT IS FURTHER ORDERED that, if Plaintiff fails to timely file a new and fully
6 complete application to proceed *in forma pauperis* and attach an inmate account
7 statement for the past six months and a properly executed financial certificate, the Court
8 will dismiss the case, without prejudice, for Plaintiff to file a new case when he is able to
9 acquire the necessary documents to file a complete application to proceed *in forma*
10 *pauperis*.

11 IT IS FURTHER ORDERED that Plaintiff shall file his updated address with the
12 Court within **forty-five (45) days** from the date of this order.

13 IT IS FURTHER ORDERED that, as a one-time courtesy, the Clerk of the Court
14 WILL SEND a copy of this order to Plaintiff at the current address listed with the Court
15 and to Plaintiff at Southern Desert Correctional Center, the address referenced for Plaintiff
16 in the NDOC inmate database.

17 IT IS FURTHER ORDERED that, if Plaintiff fails to timely comply with this order,
18 the Court shall dismiss this case without prejudice.

19 DATED: February 19, 2020.

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22 UNITED STATES MAGISTRATE JUDGE
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